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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,436	02/01/2005	Guenther Beyer-Meklenburg	103196-00008	1272

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WASHINGTON, DC 20036

EXAMINER

SPEER, TIMOTHY M

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/506,436

Applicant(s)

BEYER-MEKLENBURG ET AL.

Examiner

Timothy M. Speer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                            |                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/04</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 09/20/2004 has been considered.

### ***Claim Objections***

3. Claims 8 and 9 are objected to because of the following informalities: these claims depend from, *inter alia*, claims 17 or 18. It is improper for claims to depend from later numbered claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 3, 4, 9, 10, 11, 12, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kong (USPN 6,576,329).

Kong teaches an article comprises a laminate, wherein a layer comprising a polycarbonate is adhered to a layer comprising a mixture of LLDPE and HDPE (claims 1 and 17, for instance). Regarding the polyethylene layer, Kong teaches that the layer may included

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mixtures selected from a group of only four polymer (claim 17). Given this narrow disclosure, one having ordinary skill in the art would immediately envisage the presently claimed combination of LLDPE and HDPE, two members of the recited group. Therefore, Kong discloses the combination with sufficient specificity as to constitute an anticipation of the present claims.

Kong also teaches that fillers, such as titania, may be employed in the layers and that such fillers may be present in amounts of 1 to about 10wt. %, meeting the limitation recited in instant claims 2-4 and 17 (col. 4, lines 25-40, for instance). With respect to claims 10 and 11, applicant is not claiming any functional relationship between the printed matter and the claimed article. Accordingly, it does not distinguish over the applied prior art. Where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. *See* MPEP 2112.01.

With respect to claims 9 and 12, Kong teaches that the laminate may be formed using hot melt adhesives (col. 6, lines 9-27, for instance).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 7, 8, 13, 14, 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kong.

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Kong was discussed above. Regarding claims 5 and 18, Kong fails explicitly to teach a filler content of at least 20 wt%, as presently claimed. However, since Kong discloses filler content to be a result effective variable, discovering optimum or workable ranges would have been within the purview of the ordinary artisan and is not considered to be inventive. Similarly, regarding claims 6-8, Kong discloses a range of thicknesses for the various layers and selecting optimum or workable ranges is not considered to be inventive.

With respect to claims 14-18, optimizing the temperature at which the hot melt adhesive of Kong operates (claim 13) is considered to be within the level of ordinary skill in the art, since Kong teaches hot melt adhesives, generally. Discovering optimum or workable ranges does not distinguish over the applied prior art. Regarding claims 15-18, to print or otherwise decorate the material of Kong, for instance, if used as packaging, would have been obvious to one having ordinary skill in the art for aesthetic purposes or to provide information to the consumer, such as the manufacturer of a particular product.

In light of the above, the present claims are considered to be prima facie obvious in view of Kong.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Speer whose telephone number is 571-272-8385. The examiner can normally be reached on M-Th, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Timothy M. Speer

  
RENA DYE  
SUPERVISORY PATENT EXAMINER  
A.U. 1774 7/22/22